

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAVIER AUGUSTO QUINTEROS,

Plaintiff,

v.

THERESA CISNEROS,

Defendant.

No. 2:23-cv-01999-KJM-DMC

ORDER

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus under 28 U.S.C. §2254. The matter was referred to a United States Magistrate Judge as provided by Eastern District of California local rules.

On May 14, 2024, the Magistrate Judge filed findings and recommendations, which were served on the parties, and which contained notice that the parties may file objections within the time specified therein. No objections to the findings and recommendations have been filed.

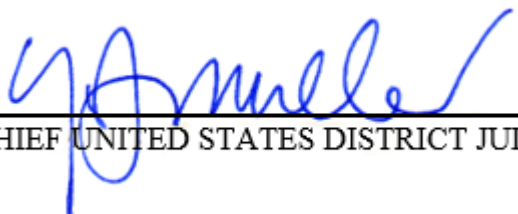
The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court . . .”). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Before petitioner can appeal this decision, a certificate of appealability must be issued. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). Where the petition is denied on procedural grounds, a certificate of appealability “should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The court finds the petitioner has not made this showing and thus declines to issue a certificate of appealability.

Accordingly, IT IS HEREBY ORDERED as follows:

1. The findings and recommendations filed May 14, 2024, ECF No. 13, are adopted in full.
2. Respondent’s unopposed motion to dismiss, ECF No. 9, is GRANTED.
3. This action is DISMISSED with prejudice as untimely.
4. The Court DECLINES to issue a certificate of appealability.
5. The Clerk of the Court is directed to enter judgment and close this file.

DATED: September 9, 2024.

  
CHIEF UNITED STATES DISTRICT JUDGE